

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

R.W., a minor, individually by and)
Through his parent and natural guardian)
SARAH WILLIAMS, AND SARAH)
WILLIAMS, individually,)

Plaintiffs,)

v.)

C.A. No. 05-662 - KAJ

THE DELAWARE DEPARTMENT OF)
EDUCATION; VALERIE WOODRUFF;)
Personally and in her official capacity as the)
Secretary of Education for the State of)
Delaware; THE STATE OF DELAWARE)
BOARD OF EDUCATION; and JOSEPH)
PIKA, Ph.D.; JEAN ALLEN, RICHARD)
M. FARMER, JR.; MARY GRAHAM,)
ESQ.; BARBARA RUTT, DENNIS)
SAVAGE, CLAIBOURNE D. SMITH;)
ANN CASE; VALERIE WOODRUFF;)
Personally an in their official capacity as)
Members of the State Board of Education;)
And THE CHRISTINA SCHOOL)
DISTRICT; JOSEPH J. WISE, personally)
And in his official capacity as the)
Superintendent of the District; DAVID)
SUNDSTROM, personally and in his)
official capacity as the Assistant)
Superintendent of the District; SANDRA)
COUNTLEY, personally and in her official)
capacity; SHARON DENNY, personally)
and in her official capacity; FREEMAN)
WILLIAMS, personally and in his official)
capacity; THE CHRISTINA SCHOOL)
DISTRICT SCHOOL BOARD; BRENDA)
PHILLIPS; JAMES DURR; GEORGE)
EVANS, ESQUIRE; BEVERLY HOWELL)
CONSTANCE MERLET; JOHN)
MACKENZIE; CECELIA SCHERER; and)
JOSEPH WISE; all personally and in their)
Official capacity as Members of the)
CHRISTINA SCHOOL DISTRICT.)

Defendants.)

**STATE DEFENDANTS' ANSWER TO PLAINTIFF'S MOTION FOR 90-DAY
EXTENSION OF TIME TO SEEK NEW ATTORNEY**

COMES NOW, the State Defendants, the Delaware Department of Education, the State Board of Education, the Honorable Valerie Woodruff, Dr. Joseph Pika, Jean Allen, Richard M. Farmer, Jr., Mary Graham, Esq., Barbara Rutt, Dennis Savage, Dr. Claibourne Smith, and Ann Case, by and through undersigned counsel, Craig R.

Fitzgerald, and hereby answers Plaintiff Sarah Williams' Motion as follows:

1. On or about March 15, 2006, Plaintiff Sarah Williams filed a request for a "90 days extension of time to seek a new attorney to enter his or her [appearance] and to follow court orders and rules and answer motion pending before the court." (Docket Item, "D.I." # 57). This pleading was docketed as a "Motion for 90-day Extension of Time to Seek New [Attorney]." (D.I. # 57).

2. The State Defendants do not object to the extent that the "Motion for 90-Day Extension of Time to Seek New [Attorney]" asks the Court for an extension of time so that Ms. Williams can seek a new attorney to represent Plaintiff R.W. and/or herself. The State Defendants, however, do object to the requested length of the extension period (90-days) as being prejudicial and request that the extension of time to find an attorney be granted for a period of 30 days.

**Motion for Extension of Time to Respond to the State Defendants' Motion to
Dismiss**

3. The State Defendants filed a Motion to Dismiss and an Opening Brief in Support of their Motion to Dismiss on October 5, 2005. (D.I. # 29-28). Pursuant to Local District Court Civil Rule 7.1.2, a responsive pleading was to be filed by Plaintiffs on or before October 20, 2005. As of March 28, 2006, Plaintiffs have not filed a

responsive pleading to the State Defendants' Motion to Dismiss. The State Defendants did not agree to an extension of time to respond to its Motion to Dismiss that was filed in October of 2005.

4. The State Defendants object to Plaintiff Sarah Williams' Motion for Extension of Time to the extent that it is construed as a motion for extension of time to file a response to the State Defendants' Motion to Dismiss that was filed on October 5, 2005. (D.I. # 29-28). Plaintiffs have not presented this Court with any form of excusable neglect (or good faith) as to the 5 month time period for not responding to the State Defendants' Motion to Dismiss. Fed. R. Civ. P. 6 (b); *See, Pioneer Inv. Servs. v. Brunswick Assoc. Ltd. Partnership*, 507 U.S. 380 (1993); *In Re Cendant Corp. Prides Litigation*, 233 F.3d 188 (3d Cir. 2000); *Dominic v. Hess Oil V.I. Corp.*, 841 F.2d 513, 517 (3d Cir. 1988). "Clients must be held accountable for the acts and omissions of their attorneys." *Pioneer Inv. Servs. Co.*, 507 U.S. at 396; *See, Walker v. Sun Ship Inc.*, 684 F.3d 266, 268-269 (3d Cir. 1982); (D.I. #60, pages 3-4).

5. On or about February 9, 2006, the State Defendants did agree to allow Ms. O'Neill an extension of time to respond to the District's Motion to Dismiss (D.I. # 54-55, filed by William Doerler, Esquire on January 17, 2006) due to an illness in her family. (Exhibit "A").

**DEPARTMENT OF JUSTICE
STATE OF DELAWARE**

/s/ Craig R. Fitzgerald
Craig R. Fitzgerald, I.D. #3730
Deputy Attorney General
102 West Water Street
Dover, DE 19904
(302) 739-7641
craig.fitzgerald@state.de.us

Dated: March 29, 2006

CERTIFICATE OF SERVICE

I hereby certify that on March 29, 2006, I electronically filed *State Defendants' Answer to Plaintiffs Motion for 90-day Extension of Time to Seek New Attorney* with the Clerk of Court using CM/ECF which will send notification of such filing to the following: William Doerler, Esq. I hereby certify that on March 29, 2006, I have mailed the document by regular mail to the following non-registered participant:

Ms. Sarah Williams
322 East 10th Street
Wilmington, DE 19801

/s/ Craig R. Fitzgerald
Deputy Attorney General
Department of Justice
102 West Water Street
Dover, DE 19904
(302) 739-7641